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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

May 21, 1993

Ms. Donna Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

RE: RM -- 8221, Joint Petition for Rulemaking and Request for  
Establishment of a Joint Board

Dear Ms. Searcy:

Citizens for a Sound Economy Foundation (CSE Foundation)  
submits this letter in opposition to the petition submitted by  
Consumer Federation of American (CFA) and National Cable  
Television Association, Inc. (NCTA).

As a participant in a host of telecommunications policy  
debates, CSE Foundation has advocated competition in  
communications markets in order to lower price, increase output,  
and enhance the quality of service for our 250,000 members and  
all consumers. We believe the Commission's Video Dial Tone  
Order<sup>1</sup> is an important step in the right direction. We  
therefore urge the Commission to dismiss this latest in a long  
line of attempts to delay competition in the cable television  
marketplace.

CFA and NCTA assert that the Commission "should hold the  
pending video dialtone applications in abeyance and refuse to  
accept any additional applications."<sup>2</sup> Petitioners argue that  
"[f]ailure to act will impose a heavy burden on consumers and  
undermine competition in the video marketplace."<sup>3</sup>

As a threshold matter, we are exceedingly curious about the  
"competition" petitioners fear that telephone companies will  
"undermine." To the best of our knowledge, the cable television

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<sup>1</sup> Telephone Company-Cable Television Cross-Ownership Rules,  
7 FCC Rcd 5781 (1992).

<sup>2</sup> Consumer Federation of American and National Cable  
Television Association, Inc., Joint Petition for Rulemaking and  
Request for Establishment of a Joint Board, RM -- 8221, April 8,  
1993, p. 22 (hereinafter "Petition").

<sup>3</sup> Id., pp. 22-23.

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industry is virtually devoid of competition, which has created a miserable state of affairs for consumers. For those of us who seek competition, that is why the Commission's Video Dial Tone Order is such a welcome policy change.<sup>4</sup>

Competition aside, the petitioners argue that, in

the absence of clear cost accounting standards..., New Jersey Bell proposes to assign to its telephone ratepayers

dial tone service the incremental investments and services that it incurs to provide this service.<sup>7</sup>

Thus, as New Jersey Bell makes quite clear, the company will segregate the costs of its video dial tone service from its basic telephone service. As a result, telephone ratepayers will not pay the costs of New Jersey Bell's video dial tone operations. Either video dial tone customers or New Jersey Bell shareholders will bear that cost.

To give the petitioners their due, perhaps they were under the impression that it is somehow improper for New Jersey Bell to replace copper telephone plant with fiber optic facilities. If that is the case, petitioners are, once again, wrong.

In earlier proceedings based upon New Jersey Bell's Dover application, members of the cable community challenged the justification for fiber deployment. New Jersey Bell responded:

The overall upgrade of New Jersey Bell's network already has been the subject of exhaustive regulatory review and approval by the New Jersey Board of Regulatory Commissioners.... Through weeks of public and evidentiary hearings, the New Jersey Board reviewed all aspects of New Jersey Bell's plan for accelerated deployment of advanced

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<sup>7</sup> Id., p. 9. See also, In the Matter of the Application of: New Jersey Bell Telephone Company for authority pursuant to Section 213 of the Communications Act of 1934, as amended, to construct, operate, own, and maintain advanced fiber optic

technologies, including the economic justification for the plan.<sup>8</sup>

In short, the issue of whether New Jersey Bell may deploy fiber facilities as described in the Dover and Florham applications has already been decided by the appropriate New Jersey officials. Petitioners have failed to offer any evidence that that proceeding was improper or wrongly decided. Even if they did offer such evidence, of course, the Commission is not the proper forum for considering appeals of state regulatory matters.

Finally, petitioners make much of the inadequacy of existing cost accounting rules to deal with video dial tone service.<sup>9</sup> We believe the Commission adequately dealt with that issue in the Video Dial Tone Order. Indeed, we suggest that the Commission would be unable to create a set of safeguards stringent enough to